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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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CMEG NYMEX INC.

Plaintiff,

vs.

OPTIONABLE, INC., KEVIN CASSIDY,  
PIERPONT CAPITAL, INC., EDWARD  
O'CONNOR, RIDGECREST CAPITAL, INC., and  
MARK NORDLICHT,

Defendants.

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No. 09 Civ. 3677 (GBD)

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ORAL ARGUMENT REQUESTED

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**DECLARATION OF MICHAEL G. BONGIORNO IN SUPPORT OF DEFENDANT  
OPTIONABLE, INC.'S MEMORANDUM IN SUPPORT OF  
ITS MOTION TO DISMISS THE COMPLAINT AND TO STRIKE  
CERTAIN ALLEGATIONS AS IMMATERIAL**

I, Michael G. Bongiorno, hereby declare under penalty of perjury as follows:

1. I am an attorney at the firm of Wilmer Cutler Pickering Hale and Dorr, LLP, counsel for Defendant Optionable, Inc. ("Optionable") in the above-captioned action. I respectfully submit this Declaration in further support of Optionable's Motion to Dismiss the Complaint and to strike certain allegations as immaterial.
2. Attached hereto as Exhibit 1 is a true and correct copy of the Complaint in this case.

3. Attached hereto as Exhibit 2 is a true and correct copy of an excerpt from Optionable's Annual Report (Form 10-KSB), filed with the SEC on March 23, 2007.
4. Attached hereto as Exhibit 3 is a true and correct copy of an excerpt from Optionable's Annual Report (Form 10-KSB), filed with the SEC on March 15, 2006.
5. Attached hereto as Exhibit 4 is a true and correct copy of an excerpt from the Commodity Futures Trading Commission's Opposition to Optionable's Motion to Dismiss, filed in *CFTC v. Cassidy, et al.*, No. 1:08-cv-09962-GBD (S.D.N.Y) on April 3, 2009.
6. Attached hereto as Exhibit 5 is a true and correct copy of an excerpt from NYMEX Holdings, Inc.'s Registration Statement (Form S-1/A), filed with the SEC on November 14, 2006.
7. Attached hereto as Exhibit 6 are true and correct copies of excerpts from the Stock and Warrant Purchase Agreement between NYMEX Holdings, Inc. and Optionable, dated April 10, 2007 and filed as part of Optionable's Quarterly Report (Form 10-QSB, Q2), filed with the SEC on August 14, 2007.
8. Attached hereto as Exhibit 7 is a true and correct copy of LEXIS Historical Stock Prices for Optionable from September 17, 2005 through January 16, 2008.

Dated: New York, New York  
June 15, 2009

WILMER CUTLER PICKERING  
HALE AND DORR LLP

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